

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 994 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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STATE OF GUJARAT

Versus

GHANCHI ADAMBHAI ALIBHAI

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Appearance:

MR ST PANDYA, ADDL.PUBLIC PROSECUTOR for Petitioners

MR PN BAVISHI for Respondent No. 1

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CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 12/08/97

ORAL JUDGEMENT

The ld. Addl. Sessions Judge, Banaskantha, at Palanpur, has allowed Criminal Appeal No. 20 of 1988 against the order of confiscation of Truck bearing No. GRW 313 of of the appellant-respondent. The said order of confiscation was passed by the competent authority under Section 61A of the Forest Act. That order is

passed on 30th March 1988.

The defence of the appellant-respondent before the competent authority was that, his truck was hired by two persons for carrying wooden handles of axes and spades. For this purpose, they left Mehsana and went to a village called Gotda in Vijapur taluka. When they reached, in the truck what in fact was being loaded was Bamboo and that too, in the quantity of 2400 pieces.

Initially, to be led to believe that the truck is being hired for legitimate purpose is one thing and when in the presence of the owner of the truck, what actually found being loaded is such large quantity of Bamboo. The owner should have immediately be put to caution and could have refused to allow that being to be loaded and thus backed out of the contract.

This aspect was considered by the Deputy Conservator of Forests as competent authority, but unfortunately, has not been properly appreciated by the ld. Addl.Sessions Judge. All the while, he has harped upon the fact that the truck was hired for carrying the aforesaid wooden handles and, therefore, he cannot be said to be a party to the alleged operation of transport of forest produce in an illicit manner. Obviously, this overlacking aforesaid aspect of human conduct cannot be escaped. Therefore, this revision application is allowed and the order of the ld. Appellate Judge is set aside. The order of the competent authority is restored and confirmed. The vehicle being Truck bearing No.GRW 313 being in custody of the respondent shall be produced before the competent authority within a period of four weeks from today. Rule is made absolute accordingly.

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